

101406

AN ORDINANCE

**AMENDING THE CITY CODE OF SAN ANTONIO, TEXAS, CHAPTER 13, ENTITLED, "FOOD AND FOOD HANDLERS" TO MAKE NECESSARY ADDITIONS, REVISIONS, AND DELETIONS REGULATING MOBILE FOOD VENDING; ESTABLISHING A FEE ASSOCIATED WITH THE AMENDMENTS, RESULTING IN ADDITIONAL FUNDS TO THE GENERAL FUND; AND PROVIDING FOR PENALTIES.**

\* \* \* \* \*

**WHEREAS**, citizens of the City of San Antonio have expressed concerns regarding prolonged hours of operation, excessive noise, and safety issues related to the operation of mobile food vendors; and

**WHEREAS**, in furtherance of the health, safety and welfare of the public, the City Council finds it is in the best interest of the City of San Antonio to make certain revisions to the City Code regarding the regulation of mobile food vendors; **NOW THEREFORE:**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** Chapter 13, Food and Food Handlers, Article IX., Mobile Food Vending, Section 13-231, Definitions, of the City Code of San Antonio, Texas is hereby amended to include the revision and addition of the following two respective definitions, to be read as follows, whereby added language is signified by underline:

*Permit* shall mean a license to operate a mobile food vending unit which shall be issued by the health director for a stated fee and shall be carried by a food vendor or food handler at all times while vending.

*Sticker* shall mean a decal issued by the health director that is numbered and has the month and year of the expiration date of the permit which shall be displayed on the mobile food vending unit.

**SECTION 2.** Chapter 13, Food and Food Handlers, Article IX., Mobile Food Vending, Section 13-233(b)(9) and Section 13-233(b)(10), Permit Requirements., *Application*, of the City Code of San Antonio, Texas are hereby amended to read, respectively, as follows, whereby added language is signified by underline and deleted language is signified by strikethrough and is bracketed:

(b) *Application.* A person seeking a mobile food vendor's unit permit from the health director shall make application on a form provided by the health director, and shall provide as part of the application:

...

(9) ~~[Any other information reasonably required by the health director.]~~ A written statement from the San Antonio Police Department certifying that the person seeking a mobile food vendor's permit is not a sex offender registered with the Texas Department of Public Safety and that the records reviewed by the San Antonio Police Department indicate that the

person seeking a mobile food vendor's permit has not been convicted of any sexual offense or any offense against a child as defined by applicable law; and  
[9](10) Any other information reasonably required by the health director.

**SECTION 3.** Chapter 13, Food and Food Handlers, Article IX., Mobile Food Vending, Section 13-233(c), Permit Requirements., *Issuance*, of the City Code of San Antonio, Texas is hereby amended to read as follows, whereby added language is signified by underline:

(c) *Issuance.* Upon receiving a proper application for a permit, the health director shall make appropriate inspections of the food, equipment, vehicles and other reasonable inspections concerned with the mobile food vending operation and shall issue a permit and a sticker only if:

- (1) The application complies with subsection (b) of this section; and,
- (2) The inspection reveals compliance with the applicable requirements of all federal and state statutes and regulations, and city ordinances governing the proposed mobile food vending unit operation.

**SECTION 4.** Chapter 13, Food and Food Handlers, Article IX., Mobile Food Vending, Section 13-233(d), Permit Requirements., *Fees*, of the City Code of San Antonio, Texas is hereby amended to revise Section 13-233(d)(4) and to add Section 13-233(d)(6) to read, respectively, as follows, whereby added language is signified by underline:

(d) *Fees*

...

- (4) The permit fee for a mobile food vending unit vending perishable and potentially hazardous foods or nonperishable and not potentially hazardous foods that are prepared on or in the mobile unit or a combination of the above with prepackaged foods shall be two hundred twenty dollars (\$220.00) per year.

...

- (6) The fee for each written statement from the San Antonio Police Department as required in Section 13-233 (b)(9) shall be forty-nine dollars (\$49.00) and shall be paid to the San Antonio Police Department by the person seeking a mobile food vendor's permit at the time of the request for such written statement.

**SECTION 5.** Chapter 13, Food and Food Handlers, Article IX., Mobile Food Vending, Section 13-233(f), Permit Requirements., *Display*, of the City Code of San Antonio, Texas, is hereby amended to read as follows, whereby added language is signified by underline and deleted language is signified by strikethrough and is bracketed:

(f) *Display.* ~~[The food vendor shall display the mobile food vending unit permit in a conspicuous manner during any and all vending operations. A food vendor shall carry a permit upon his person.]~~ The valid sticker shall be displayed by a mobile food vendor:

- (1) inside the vehicle, used in connection with the mobile food vending operation, at the top of the windshield on the passenger side of the vehicle; or
- (2) on the trailer fender above the tailgate and license plate of an open, flat bed or

enclosed trailer used in connection with the mobile food vending operation; or  
(3) at the top right-hand corner on the front of a pushcart, bicycle or tricycle used in connection with the mobile food vending operation; or  
(4) in front of the two-compartment sink of a corn roaster used in connection with the mobile food vending operation.

**SECTION 6.** Chapter 13, Food and Food Handlers, Article IX., Mobile Food Vending, Section 13-233(i), Permit Requirements., *Renewal*, of the City Code of San Antonio, Texas is hereby amended to read as follows, whereby added language is signified by underline and deleted language is signified by strikethrough and is bracketed:

(i) *Renewal.* ~~[The permit shall be renewed each year in like manner as the original permit application.]~~ Every mobile food vendor's unit and afoot vendor's permit shall be renewed each year in like manner as the original permit application, except that the written statement from the San Antonio Police Department required under Section 13-233(b)(9) shall be renewed every two years from the date of issuance by the San Antonio Police Department of such written statement, with a current written statement to be provided to the health director by the permit holder every two years at the time the permit holder is seeking permit renewal.

**SECTION 7.** Chapter 13, Food and Food Handlers, Article IX., Mobile Food Vending, Section 13-234, *Operation Requirements and Restrictions*, Subsections (5) and (10) of the City Code of San Antonio, Texas are hereby amended to read, respectively, as follows, whereby added language is signified by underline and deleted language is signified by strikethrough and is bracketed:

- (5) Mobile food vending units may stop in a public street, or right-of-way, provided:
- (a) this area is not in or within fifty (50) feet of an intersection; ~~[-and]~~
  - (b) this area is not an area prohibited to the standing or parking of vehicles;
  - (c) all items are vended from the curbside of the vehicle or the rear of the vehicle;
  - (d) the mobile food vending unit is in compliance with the requirement for hazard lamps as set forth in Section 13-234(14) of this Article; and
  - (e) the mobile food vending unit is vending in a safe manner.

(10) Mobile food vending operations shall not be carried on within three hundred (300) feet of any licensed retail food store, food establishment, or food service establishment as defined under Articles XII, I and VIII of this chapter, provided that pushcarts, bicycles and tricycles are exempt from this provision in El Mercado, Hemisfair Plaza, La Villita, Alamo Plaza, and in privately owned shopping malls with the owner's or operator's permission. Provided further that this requirement shall not apply in the area designated as the downtown business district or to mobile food units dispensing produce in the area designated "Terminal Market Area", and provided also that a mobile food vending unit may be exempt from this provision if written, notarized permission is given by the food establishment owner with regards to a mobile food vendor operating within three hundred (300) feet of his establishment. The written permission shall be kept with the mobile food service unit at all times as the unit is located within three hundred (300) feet of said food establishment.

**SECTION 8.** The City Code of San Antonio, Texas is hereby amended by adding Subsections (12) through (22) to Chapter 13, Food and Food Handlers, Article IX., Mobile Food Vending, Section 13-234, *Operation Requirements and Restrictions*, and such subsections shall read as follows, whereby added language is signified by underline:

(12) The hours of operation of any mobile food vending unit operating in a residential area shall be 7:00 a.m. Central Standard Time to thirty minutes after sunset, except during the months of June, July and August, wherein such hours of operation shall be 7:00 a.m. Central Standard Time to 10:00 p.m. Central Standard Time.

(13) The total noise level of any mobile food vending unit shall comply with Chapter 21, Article III of the San Antonio City Code. The mobile food vending unit shall turn off all music and recorded messages while stationary, except when stopped at a controlled intersection.

(14) Mobile food vending units that are operating in a residential area shall comply with Section 547.703 of the Texas Transportation Code. When stationary, the mobile vending unit must turn on its hazard lamps as defined in Section 547.331 of the Texas Transportation Code, except when stopped at a controlled intersection.

(15) No mobile food vending unit shall be parked in violation of Section 35-311 of the Unified Development Code.

(16) No food vendor or food handler as defined in Section 13-231 shall be a sex offender registered with the Texas Department of Public Safety or shall have been convicted of any sexual offense or any offense against a child as defined by applicable law.

(17) Prior to vending, each food vendor and food handler shall be required to obtain a written statement issued by the San Antonio Police Department certifying that the food vendor or food handler is not a sex offender registered with the Texas Department of Public Safety and that the records reviewed by the San Antonio Police Department indicate that the food vendor or food handler has not been convicted of any sexual offense or any offense against a child as defined by applicable law.

(18) Each food vendor and food handler must renew the written statement from the San Antonio Police Department required under Section 13-234 (17) of this Article every two years from the date of issuance by the San Antonio Police Department of such written statement.

(19) The fee for each written statement from the San Antonio Police Department as required in Sections 13-234 (17) and (18) shall be forty-nine dollars (\$49.00) and shall be paid to the San Antonio Police Department by the food vendor or food handler, as applicable, at the time of the request for such written statement.

(20) Each food vendor and food handler shall carry a current written statement from the San Antonio Police Department, as required under Section 13-234 of this Article, on their person at all times while vending.

(21) It shall be unlawful for a person who has obtained a mobile food vendor's unit permit pursuant to Section 13-233 to hire or allow a person to vend who has not first obtained a current written statement issued by the San Antonio Police Department as required by Sections 13-234 (17) and (18) of this Article.

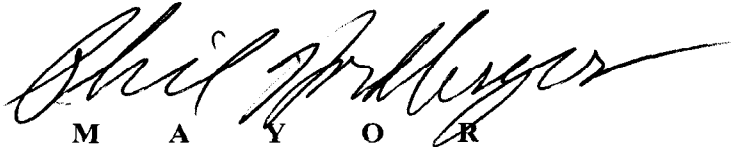
(22) It shall be unlawful for a person operating a mobile food vending unit to place or allow the placement of any table, chair, awning or other seating or eating area at, near or around the location of the mobile food vending unit; provided, however, that this provision shall not be construed to conflict with or prohibit what is allowed by Section 13-234 (2) for the display of produce by produce mobile food vendors.

**SECTION 9.** Any person, firm, corporation, agent, employer or employee who violates any provision of this Chapter shall, upon conviction, be fined in accordance with Chapter 13, Article XIII., Section 13-371 of the City Code of San Antonio, Texas. Each day that a violation is committed or permitted to exist shall constitute a separate offense.

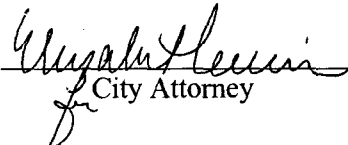
**SECTION 10.** The City Clerk of the City of San Antonio, Texas, is hereby directed to publish this ordinance in a newspaper published in the City of San Antonio, Texas as authorized by Article II, Section 17 of the Charter of the City of San Antonio.

**SECTION 13.** This ordinance shall become effective on January 1, 2006.

PASSED AND APPROVED this 15<sup>th</sup> day of September, 2005.

  
M A Y O R

ATTEST:  **PHIL HARDBERGER**  
City Clerk

APPROVED AS TO FORM:   
City Attorney

# Agenda Voting Results

**Name:** 4U.

**Date:** 09/15/05

**Time:** 03:25:07 PM

**Vote Type:** Multiple selection

**Description:** An Ordinance amending the City Code of San Antonio, Texas, Chapter 13, entitled, "Food and Food Handlers" to make necessary additions, revisions, and deletions regulating mobile food vending; establishing a fee associated with the amendments, resulting in additional funds to the General Fund; and providing for penalties.

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		x		
SHEILA D. MCNEIL	DISTRICT 2		x		
ROLAND GUTIERREZ	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5		x		
DELICIA HERRERA	DISTRICT 6		x		
ELENA K. GUAJARDO	DISTRICT 7		x		
ART A. HALL	DISTRICT 8		x		
KEVIN A. WOLFF	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10		x		
MAYOR PHIL HARDBERGER	MAYOR		x		